

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALYSON WEST,

Defendant.

8:17CR27

ORDER

This matter is before the Court on defendant Alyson West's ("West") Motion Pursuant to Section 2255 of Title 28 United States Code (Filing No. 40).

Under the Rules Governing Section 2255 Proceedings for the United States District Courts ("2255 Rules"), the Court must perform an initial review of the defendant's § 2255 motion. *See* 28 U.S.C. § 2255, Rule 4(b). The 2255 Rules provide that unless "it plainly appears from the face of the motion and any annexed exhibits and the prior proceedings in the case that the movant is not entitled to relief in the district court," the Court must order the United States Attorney to respond to the motion.

West pled guilty to possessing fifty grams or more of a mixture or substance containing methamphetamine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1) and (b)(1), and was sentenced to a term of imprisonment of 70 months.

In her § 2255 motion, West asserts, "My attorney was unhelpful. I feel he wasn't working for me." In her supporting facts, West states, "He did not help me resolve an open case I had for [a] probation violation on a petty offense in Colorado, [which] raised my points, giving me a longer or higher guideline range."

West's petition plainly shows that she is not entitled to relief. "The Federal Public Defender for the District of Nebraska [was] appointed to represent [West] *in this matter*."

(Filing No. 11) (emphasis added). West is not entitled to a federal public defender to deal with unrelated state-court charges. The only duty West's counsel had regarding the Colorado charge was to inform her of its possible effect on her sentencing, not to "resolve" it for her.

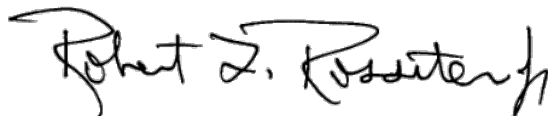
"The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant." 2255 Rules. "A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). A substantial showing has not been made if no reasonable jurist could conclude the district court incorrectly dismissed the petition. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). West has not made the required substantial showing and this Court will not issue a certificate of appealability. Accordingly,

IT IS ORDERED:

1. Alyson West's Motion Pursuant to Section 2255 of Title 28 United States Code (Filing No. 40) is dismissed.
2. The Clerk of the Court is directed to mail a copy of this Order to Alyson West at the address of record for her current place of incarceration.
3. No certificate of appealability shall issue.
4. A separate judgment in accordance with this Order will be entered this date.

Dated this 11th day of June, 2018.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Robert F. Rossiter, Jr.", with a stylized flourish at the end.

Robert F. Rossiter, Jr.
United States District Judge